

MINUTES

The Alabama Real Estate Commission met July 29, 2005, at the Birmingham Area Association of Realtors, 3501 Independence Drive, Homewood, Alabama

Chairman Poole called the meeting to order at 9:00 a.m.

Those present were Chairman Bill Poole; Vice-Chairman Gordon Henderson; Commissioners Roy Bragg, Thomas Hays, Bobby Hewes, Sheila Hodges, Lyman Lovejoy and Chester Mallory; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly; Auditors Anthony Brown and Vickie Shackelford; Hearing Officer Tori Adams-Burk. Absent with prior notice was Commissioner Jewel Buford.

Chairman Poole welcomed guests and appreciation was expressed to the Birmingham Association of Realtors for use of their facility. Commissioner Lovejoy specifically recognized Jim Isbell from St. Clair County who was in attendance to observe as all licensees are so encouraged.

Commissioner Mallory moved to approve the June 20 meeting Minutes as presented. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Chairman Poole called on Executive Director Philip Lasater, who provided a recap of the passage of SB 17 and reported that it would become effective the first day of the third month after its approval by the Governor. The end of the following week is the earliest it is anticipated to be signed and November 1 is the likely effective date.

Chairman Poole recognized Bill Watts, President elect of AAR, and expressed appreciation to AAR for its lobbying efforts on behalf of the Real Estate Commission bill. Commissioner Bragg moved that resolutions be adopted expressing appreciation to all legislators who enabled the Commission bill to be enacted and to also direct correspondence to AAR leadership commending the work of Danny Cooper and those others assisting in lobbying. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Chairman Poole requested that Commissioner Bragg's Task Force work on "properly identified as a real estate office" within place of business requirements be expanded to also include review of the size of letters in advertising enforcement. Commissioner Bragg agreed.

The financial report for June was reviewed with no action being taken.

Public Hearing opened on advertised Rules. Those speaking registered varying expressions of support and opposition to different aspects of the proposed amendments. The individuals making statements in the public hearing are listed in the order they spoke: Howard King, Jeri Gray, Ginny Willis, Harriet Issacson, Amil Ankermiller, Dwight Wells, Sandra Johnson, Ann Wells, and Marcia Norris. Chairman Poole, noting that no one else present wished to speak, closed the public hearing.

Commissioner Hays was excused prior to disciplinary deliberations.

Alabama Real Estate Commission vs. Denise S. Stafford, Formal Complaint No. 2837

Upon discussion of the evidence and testimony presented in the matter of Denise S. Stafford, Qualifying Broker, C S Properties LLC, d/b/a RE/MAX First, Muscle Shoals, Alabama, and the alleged violation of the Code of Alabama as amended, Section 34-27-36(a)(8)b. by failing, within a reasonable time, to properly account for money coming into her possession that belonged to others and by failing to deposit and account for funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama, Commissioner Hodges moved to find Ms. Stafford guilty and to reprimand her. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Amy Tortorigi, Formal Complaint No. 2862

Upon discussion of the evidence and testimony presented in the matter of Amy Diane Tortorigi, Inactive Salesperson, Trussville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36 (a)(19) by violating or disregarding the ORDER of the Commission in that she failed to pay a \$250 fine within 30 days of receipt of the ORDER, Commissioner Hodges moved to find Ms. Tortorigi guilty and to revoke her license. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Samuel Upshaw, Jr., Formal Complaint No. 2863

Upon discussion of the evidence and testimony presented in the matter of Samuel Upshaw, Jr., Anvil Property Brokers LLC, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(1) by procuring or attempting to procure a license for himself or another by fraud, misrepresentation, or deceit, or by making a material misstatement of fact, Commissioner Henderson moved to find Mr. Upshaw not guilty and to approve his continued licensure. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Jessica Escott, Formal Complaint No. 2868

The previous fine having been paid, Commissioner Henderson moved to dismiss formal complaint #2868. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Dina M. Chappell, Formal Complaint No. 2867

Upon discussion of the evidence and testimony presented in the matter of Dina M. Chappell, Salesperson, The Property Shop, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(j)(1) and Alabama Real Estate Commission Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline and by the false or inaccurate filing of the renewal, Commissioner Henderson moved to find Ms. Chappell guilty and to reprimand her. Commissioner Hodges seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Shannon M. Tuffaha, Formal Complaint No. 2869

Upon discussion of the evidence and testimony presented in the matter of Shannon M. Tuffaha, Salesperson, JRHBW Realty, Inc., d/b/a RealtySouth-Hoover Branch Office, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(23)a. by having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude, Commissioner Hodges moved to find Ms. Tuffaha not guilty. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Beth Anne Wicker, Reciprocal Salesperson Applicant, I-11,681

Upon discussion of the reciprocal salesperson's application submitted by Ms. Wicker, Commissioner Hodges moved to deny her reciprocal application. Commissioner Mallory seconded the motion and it failed 2-5 with Commissioners Bragg, Henderson, Hewes, Lovejoy, and Poole voting no. Commissioner Lovejoy moved to approve the reciprocal application of Ms. Wicker. Commissioner Bragg seconded the motion and it passed 5-2 with Commissioners Hodges and Mallory voting no.

Leah Flowers Austin, Applicant for Determination of Licensing Eligibility, I-11,663

Upon review of the application for determination of licensing eligibility submitted by Ms. Austin, Commissioner Hodges moved to approve her license eligibility. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

James Ray Knopf, Jr. Applicant for Determination of Licensing Eligibility, I-11,700

Upon review of the application for determination of licensing eligibility submitted by Mr. Knopf, Commissioner Mallory moved to approve his license eligibility. Commissioner Hodges seconded the motion and it passed unanimously 7-0.

David F. McFee, Applicant for Determination of Licensing Eligibility, I-11,662

Upon review of the application for determination of licensing eligibility submitted by Mr. McFee, Commissioner Hewes moved to approve his license eligibility. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

NOT APPEARINGS

Barbara Burrow Realty, Request for Hardship Waiver to Have Additional Licensee Work from Home Operation, I-11,687

Upon discussion of Ms. Burrow's hardship request to have an additional licensee working from her home, Commissioner Bragg moved to approve the hardship request of Ms. Burrow. Commissioner Lovejoy seconded the motion and it passed unanimously 7-0.

Thomas Daniel Williams, Applicant for Determination of Licensing Eligibility, I-11,688

Upon discussion of the determination of licensing eligibility application submitted by Mr. Williams, Commissioner Lovejoy moved to approve the license eligibility of Mr. Williams. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Harold Lynn Walker, Applicant for Determination of Licensing Eligibility, I-11,689

Upon discussion of the determination of licensing eligibility application submitted by Mr. Walker, Commissioner Hodges moved to deny the license eligibility of Mr. Walker. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Moniesa Lynn Kirk, Applicant for Determination of Licensing Eligibility, I-11,690

Upon discussion of the determination of licensing eligibility application submitted by Ms. Kirk, Commissioner Henderson moved to deny the license eligibility of Ms. Kirk. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Melanie S. Farrow, Formal Complaint No. 2871, Surrender of License

Commissioner Hodges moved to accept the license surrender of Ms. Farrow. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Dan Campbell, Applicant for Reciprocal Sales License, I-11,704

Upon discussion of the the application for reciprocal license submitted by Mr. Campbell, Commissioner Hodges moved to deny the reciprocal sales license of Mr. Campbell. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

R. Gene Wilhite, Surrender of Real Estate License, I-11,431

Commissioner Henderson moved to accept the license surrender of Mr. Wilhite. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Timothy A. McDaniel, Formal Complaint No. 2872

Upon discussion of the evidence and testimony presented in the matter of Timothy A. McDaniel, Salesperson, JRHBW Realty, Inc., d/b/a RealtySouth, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Hewes moved to find Mr. McDaniel guilty and to fine him \$250. Commissioner Lovejoy seconded the motion and it passed 6-0 with Commissioner Mallory abstaining.

Donnie F. Shaver, Hardship Request for Extension of Original License Deadline

Upon review of the request by Mr. Shaver to extend the original application deadline, Commissioner Henderson moved to approve the hardship request of Mr. Shaver. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

There being no further business, the meeting adjourned at 1:45 p.m.

Done this 29th day of July, 2005.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary